

# **3-18.000**

## **GENERAL ACCOUNTING OFFICE AUDITS/REPORTING REQUIREMENTS/USAO SURVEYS/URGENT REPORTS**

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### **3-18.100 United States Attorneys' Offices Surveys**

All surveys, questionnaires, requests for information, or visits from one or more United States Attorneys' Offices (USAOs) by Department of Justice offices, boards, divisions, field offices, bureaus, or United States Attorneys; or by other persons or organizations outside the Department, including the private sector; other U.S. Government offices; Members of Congress or Committees; or the General Accounting Office (GAO) should be submitted to the Executive Office for United States Attorneys (EOUSA) for coordination to conserve the resources and time of USAOs personnel, to prevent unnecessary duplication of research and survey efforts, and to ensure that alternate sources of data are utilized when available. Congressional requests shall continue to be submitted by Congress to the Office of Legislative Affairs, who shall then submit the request directly to EOUSA. GAO requests should go through the Counsel to the Director, EOUSA. All non GAO surveys, questionnaires, requests for information should be submitted to Donna Enos, Office of the Director, EOUSA, for coordination. Please contact the Counsel to the Director, EOUSA, for assistance.

The request for a survey should consist of a list of proposed USAOs to participate, a proposed questionnaire or survey form, detailing the specific information sought and briefly summarizing the background and the litigative, legislative or other purpose for which the information is sought. Whenever possible, questionnaire forms shall be provided for replies by United States Attorneys. Requests for site visits should include: the sites to be visited, the desired dates for the visits, the overall scope and objectives of the audit, the persons or types of persons sought to be interviewed, and the documents or types of documents sought to be reviewed.

The requesting unit and the EOUSA shall cooperate to make any necessary modifications in proposed surveys prior to dissemination and shall request the participation of United States Attorneys. The EOUSA shall request United States Attorneys participation and coordinate the scheduling of visits. The requesting units shall fully inform the Director, EOUSA, of the results of surveys and provide copies of all written reports and other derivative products.

### **3-18.110 General Accounting Office -- Authority for Audits**

The General Accounting Office (GAO) is part of the legislative branch of the government. It has statutory authority to examine departmental activities and we are obliged to cooperate with that agency. However, certain information may be restricted under law (e.g. grand jury material) or because of the significant risks involved with disclosure. In addition the functions of the Department serve important public interests and should not be interrupted unduly. As a result, we must balance our obligation to honor GAO authority to conduct reviews with our duty to maintain necessary confidences and to conduct effectively our public business.

### **3-18.120 Procedures Regarding GAO Contacts**

Before responding to a GAO request, a USAO should immediately consult with the Counsel to the Director, EOUSA.

### **3-18.200 Urgent Reports -- Litigation -- Pending and New**

The following Urgent Report procedures should be followed for communicating major developments to the Department of Justice in new or pending important cases.

A. Where a Justice Department litigating division has assumed responsibility for a case, the Department of Justice trial attorney shall notify promptly the appropriate supervisor within that division of any major development in an important case. One week advance notice should be provided to the appropriate supervisor whenever a major case development can be anticipated. A supervisor shall immediately report such information to the appropriate Assistant Attorney General. Upon receipt of the Urgent Report, the Assistant Attorney General shall notify the Associate Attorney General, when appropriate, the Deputy Attorney General and the Attorney General. Urgent Report notification should be made by a memorandum signed by the reporting attorney even where verbal communication has already taken place. Care should be taken to assure that material classified as "confidential" or above, not be transmitted over the EMAIL system but rather be transmitted over a secure STU-III Triad facsimile.

B. In cases where the United States Attorney's office controls litigation, communication of major developments should be made to the Executive Office for United States Attorneys as soon as possible, and where the development can be controlled, at least one week in advance. Again, communication of an Urgent Report via EMAIL is required even where verbal notice has been given. The Executive Office for United States Attorneys shall assume responsibility for further dissemination of the Urgent Report.

C. In cases where the United States Attorney's office and a Department of Justice litigating division are jointly involved in litigation, the United States Attorney's office should report major developments to the Executive Office for United States Attorneys via the EMAIL Urgent Report system. Verbal discussion with a litigating division is no substitute for this responsibility.

D. Suggested criteria for determining what are major developments in important cases are listed below. Please note that this is not an exhaustive list. Also observe that developments can include many steps other than the filing or settling of a case; even procedural motions can be important enough to report in some instances.

1. Implications cutting across several federal agencies;
2. Large monetary liability at issue;
3. State or local government unit as a party;
4. Involvement of some aspect of foreign relations;
5. High likelihood of coverage in news media, or Congressional interest; and

6. Any serious challenge to Presidential authority or national security concerns.

### **3-18.220 Urgent Reports -- Notice of Interviews of Subjects of Investigations**

It is the policy and practice of the Department of Justice to keep appropriate officials, including the Assistant Attorney General for the Criminal Division or, when appropriate the Assistant Attorney General for the Civil Division, the Associate Attorney General, the Deputy Attorney General and the Attorney General, advised of sensitive criminal or civil investigations particularly those in which public figures or entities are subjects of the investigation. Urgent Reports must be submitted to advise these Department officials upon the initiation of such sensitive investigations. To assure timely communication of information developed during such investigation, the below listed procedures should be followed:

A. This notification procedure shall not interrupt, alter or delay the normal conduct and pursuit of any investigation.

B. If in the course of any federal investigation, it is determined that an interview, grand jury appearance or trial appearance is required of any member of Congress, federal judge, high executive branch official or other nationally prominent public figure, the responsible prosecuting or investigating attorney shall provide advance notice to the appropriate official in the Department of Justice before contacting the public figure. Where a Justice department litigating division has assumed responsibility for the investigation, notice shall be made by a memorandum signed by the reporting attorney. In cases where the United States Attorney's office controls the investigation or where the United States Attorney's office and a Department of Justice litigating division are jointly involved in the investigation, notice shall be made through an EMAIL Urgent Report. The Executive Office for United States Attorneys shall assume responsibility for further dissemination of the Urgent Report. Similar notification should be made in advance of any indictment of such public figures. These procedures do not satisfy other applicable consultative and approval requirements, if any, that may apply.

C. The Urgent Report should be submitted to the Department of Justice as soon as possible, preferably one week before the anticipated event. In the case of an emergency, the information may be communicated orally to the appropriate Assistant Attorney General for further dissemination to the Associate Attorney General, when necessary, the Deputy Attorney General and the Attorney General. Oral notification should be made as much in advance of the event as possible, and should be followed immediately by a memorandum signed by the reporting attorney where a Justice Department litigating division has assumed responsibility for a case or by EMAIL Urgent Report where the United States Attorney's office is involved in the case. Emergencies requiring waiver of the advance notification requirement should be rare as most investigative steps are planned well in advance.

D. To preserve investigative integrity and to avert possible unfair publicity, Urgent Reports should be brief and avoid unnecessary investigative detail. All Urgent Reports will be kept on a limited official use basis.

### **3-18.230 Urgent Reports on Other Matters**

Information falling within the criteria set forth below should be sent by EMAIL/FAX (utilizing a secured machine when appropriate), followed by a written memorandum, for further distribution to the Attorney General, Deputy Attorney General, Associate Attorney General and the appropriate Assistant Attorney General. United States Attorneys' offices will communicate directly to the Executive Office for United States Attorneys. Litigating division staff attorneys will communicate directly to the appropriate supervisor at the Department of Justice. Access to Urgent Reports is strictly controlled and limited to those officials having a need to know.

- A. Emergencies -- e.g., riots, taking of hostages, hijacking, kidnapping, prison escapes with attendant violence, serious bodily injury to or caused by Department personnel;
- B. Allegations of improper conduct by the Department or specific Department employee, a public official, or a public figure; including criticism by a member of Congress, a court, or other senior government officials of the Department's handling of a particular matter;
- C. Serious conflicts with other government agencies or departments;
- D. Issues or events that may be of major interest to the press, Congress or the President; and
- E. Other information so important as to warrant the personal attention of the Attorney General within 24 hours.

### **3-18.231 Format for Urgent Reports**

*See the EOUSA Resource Manual at 143.*